

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:04-cr-31-01

v.

HONORABLE PAUL L. MALONEY

CHARLES McCOULLOUGH

Defendant.

_____ /

MEMORANDUM OPINION AND ORDER

Defendant Charles McCoullough has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2011. U.S.S.G. § 1B1.10(c).

The defendant was sentenced to the mandatory minimum of 10 years imprisonment for his offense. Upon review of the sentence modification report of the United States Probation Office and consideration of the response to the report filed by the defendant, the Court determines the defendant is not eligible for a sentence reduction because his sentence was based

on the statutory mandatory minimum. Absent an appropriate motion filed by the Government, the Court has no authority to reduce a sentence below the mandatory minimum. Accordingly, the amendments are of no assistance to the defendant. Therefore,

IT IS HEREBY ORDERED that Defendant Charles McCoullough's motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 67) is **DENIED**.

Date: November 5, 2012

/s/ Paul L. Maloney

Paul L. Maloney

Chief United States District Judge